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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,721	01/14/2002	Paul Clifford Reid	4059/12	1575

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[REDACTED] EXAMINER

COTTINGHAM, JOHN R

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3679

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/044,721	REID, PAUL CLIFFORD
	Examiner John R. Cottingham	Art Unit 3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17-June 2002.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,10 and 18-48 is/are pending in the application.
- 4a) Of the above claim(s) 1,2 and 33-47 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 10,18-32 and 48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group II in Paper No. 8 is acknowledged.

The traversal is on the ground(s) that the claims of the two groups are not sufficiently distinct or different to testify a restriction requirement as defined in 35 U.S.C. §121.

This is not found persuasive because the restriction does meet the limitations set out in the MPEP §806.05(f). The Applicant argues that the sleeve in the method claims requires the step of slipping the sleeve over the post and the apparatus claims are limited to the sleeve being able to slip over the post. The apparatus claims do not require the sleeve to be slipped over the post, just capable of being slip over. The sleeve can be formed around the post while still being capable of slipping over the top of the post, thus the restriction is proper.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in WO 01/04440 on June 20, 2000. It is noted, however, that applicant has not filed a certified copy of the PCT application as required by 35 U.S.C. 119(b).

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for

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receiving a promotional display must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19, lines 1-2, the phrase "said supported lengths of material wherein said supported lengths of material" is redundant.

***Claim Objections***

7. Claims 19, 21 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 19 limits the lengths of material which is not positively claimed and does not further limit the claim subject matter.

Claim 20, further limits the non-positively claimed support member and does not further limit the positively claimed subject matter.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 10, are rejected under 35 U.S.C. 102(b) as being anticipated by Hubbell U.S. Patent 4,520,231. Hubbel shows all of the claimed subject matter of a sleeve in Figures 1-4.

Regarding claim 10, a sleeve 2 configured to fit over a support member for a fence 60 comprising the sleeve 2 having at least one web 38 configured to support lengths of material used in the fence 60.

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Regarding claim 18, a fence support comprising a sleeve 2 for fitting over a support member 60 comprising at least one web 38, the web 38 comprising at least one means 42 to support lengths of material (col. 2, lines 57-59), the means comprising an incision 42.

Claim 19, the lengths of material are electrified. (col. 2, lines 57-59)

Regarding claim 20, the sleeve is composed of an insulating material (col. 2, lines 57-59).

Regarding claim 21, the support member is a rod 60.

Regarding claim 22, the sleeve 2 comprises at least one internal projection 20 for frictional connecting the sleeve 2 and the support member 60.

Regarding claim 23, the projection 20 is deformable (as seen in Figure 4).

Regarding claim 25, the sleeve is substantially composed of molded material (col. 4, lines 3-5).

Regarding claim 26, the support further comprising a cap 8 covering the sleeve and support member.

Regarding claim 27, the cap is waterproof (from being made of plastic).

Regarding claim 28, the cap is lockable since it is attached to the sleeve and which is held by a friction fit.

Regarding claim 29, a fence support comprising a sleeve 2 for fitting over a support member 60 comprising at least two webs 38 & 40, the webs each have at least one means 38 and 40 to support lengths of material. (col. 2, lines 57-59)

Regarding claim 30, the means to support lengths of material each comprise a slot 42 & 44.

Regarding claim 31, wherein the slots 42 & 44 are disposed at opposing angles relative to each other.

Regarding claim 32 the sleeve comprises a means for receiving a promotional 38 & 40.

Regarding claim 48, a support structure for an electrified fence (col. 4, lines 3-5) which comprises a sleeve 2 for receiving and substantially surrounding the entire exposed surface of a post 60 which extends vertically from the underlying surface at the side of the electrified fence, the interior of the sleeve comprises friction means 20 for frictionally and forceably receiving the post 60, the sleeve including an exterior web 38 which is disposed parallel to the post when the sleeve is installed over the post 60, the web 38 has an opening for receiving an electrified wire of the fence, the sleeve 2 is composed of a dielectric material (col. 4 lines 3-5) at least whereit receives the electrified wire, the sleeve further includes a cap 8 for covering the top of the post when the sleeve is installed over the post 60.

#### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbell U.S. Patent 4,520,231. Hubbell does not disclose the sleeve being made of an extruded material. However, it would have been well within the level of one of ordinary skill in the art at the time the invention was made to make the sleeve of an extruded material for cheaper construction costs. The selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson, Jr. U.S. Patent 4,623,756 and Teixeira U.S. Patent 5,085,409 show similar inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (703) 306-3439. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-216.



John R. Cotttingham  
Examiner  
Art Unit 3679

jrc  
September 4, 2002